

REMARKS

Claims 53-80 are pending in this application. Claim 80 was added in this Amendment and is supported on page 16, lines 15-17 of the specification. This new claim does not add new matter.

In the Office Action mailed December 15, 2004, the Office rejected claims 53-55 and 58-79 under 25 U.S.C. § 102(b) as being anticipated by Zufferey et al., Nature Biotech., vol. 15, pp. 871-875 (1997), because it asserted that the claims "comprise" retroviral sequences "consisting of" at least one cPPT sequence, at least one CTS sequence, and the intervening *pol* sequences and that the nucleic acid taught by Zufferey includes these sequences. The Office asserted that the claimed nucleic acid could comprise other *pol* sequences.

Although Applicants disagree that Zufferey et al. teaches the claimed nucleic acids, merely to further prosecution, claims 53, 65, 71, 76, 78, and 79 have been amended to indicate that "any other sequence of *pol* is absent" In contrast, Zufferey et al. teach a nucleic acid in which the *env*, *vif*, *vpr*, *vpu*, and *nef* genes have been deleted. There is no teaching in Zufferey et al. of deleting any part of the *pol* gene. Furthermore, Zufferey et al. does not recognize the cPPT or CTS sequences of the *pol* gene. Without any teaching of the claimed sequences of *pol* and the lack of other *pol* sequences, Zufferey et al. cannot anticipate the claimed invention. Thus, Applicants respectfully request that this rejection be withdrawn.

Regarding claim 75, Applicants note that the term "or both the *ClaI* and *EcoRI/BamHI* inserts" has been deleted. As the Office indicated that the arguments to

the previous rejections were persuasive and that the previous amendment adding this term was the grounds for the new rejection in light of Zufferey et al., Applicants respectfully request that the new rejection be withdrawn.

The Office objected to claims 56 and 57 because of the lack of the words "that is" after "vector" in claim 56. Applicants thank the Office for noting this typographical error and have amended claim 56 accordingly. Applicants respectfully request that the rejection be withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 7, 2005

By: 
Deborah Katz
Reg. No.: 51,863
Phone: 202.408.4382
Fax: 202.408.4400
E-mail: deborah.katz@finnegan.com